Reg. No. KL/TV(N)/[illegible]

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Monday, 26th August 1985 / 4th Bhadra 1907 [No. 704

GOVERNMENT OF KERALA

Home (SS-A) Department

NOTIFICATION

No. 35776|SSA1|85|Home. *Dated, Trivandrum, 26th August, 1985.*

S. R. O. No. 1154|85.—In exercise of the powers conferred by sub-section (1) and (2) of section 7 of the Terrorist and Disruptive Activities (Prevention) Act, 1985 (Central Act 31 of 1985), the Government of Kerala, with the concurrence of the Hon'ble Chief Justice of the High Court of Kerala, hereby constitute a Designated Court for the purposes of the said Act for the whole State and appoint Shri P. N. Narendranathan Nair, District and Sessions Judge Trivandrum as the Judge to preside over the said Court.

The ordinary place of sitting of the Designated Court shall be Trivandrum.

By order of the Governor,

N. KALEESWARAN,
Commissioner and Secretary to Government.

33|3552|MC.

Explanatory Note

(This does not form part of this Notification, but is intended to indicate its general purport).

Section 9 (1) of the Terrorist and Disruptive Activities (Prevention) Act, 1985 requires that every offence punishable under the provisions of the said Act shall be triable only by the Designated Court. Hence this Notification.

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7B. *Revision*.—The Government may *suo motu* revise an order passed by the Excise Commissioner,—

(i) in the case of an order refusing sanction for the grant or renewal of a licence, within the period for which the licence is applied; and

(ii) in the case of an order granting sanction for a licence, or cancelling or suspending a licence, within the period for which the licence is granted:

Provided that no order adversely affecting a person shall be passed under this rule without giving him an opportunity of being heard.".

By order of the Governor,

M. G. K. MURTHY,
Secretary to Government.

Explanatory Note

(This is not part of the amendment, but is intended to indicate its general purport).

There is no provision in the Varnish Rules for appeal and revision against the order of the Excise Commissioner. Government are of the view that provision for appeal and revision is absolutely essential. The amendments are intended to achieve the above object.

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GOVERNMENT OF KERALA

Taxes (G) Department

NOTIFICATION

G. O. MS. No. 105/85/TD. *Dated, Trivandrum, 31st July, 1985.*

S. R. O. No. 1155/85.—In exercise of the powers conferred by section 15, 18, 18A and 29 of Abkari Act, 1 of 1077, the Government of Kerala hereby make the following rules further to amend the Cochin Varnish Rules, namely:—

RULES

1. *Short title and commencement.*—(i) These rules may be called the Cochin Varnish (Amendment) Rules, 1985.

(ii) They shall come into force at once.

2. *Amendment of the Rules.*—In the Cochin Varnish Rules, after rule 7, the following rules shall be inserted, namely:—

"7A. *Appeals.*—(1) An appeal against an order passed by the Excise Commissioner shall lie to the Government.

(2) Every appeal shall be filed within two months of the date of communication of the order appealed against.

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Government of Kerala
1985

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

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Vol. XXX] Trivandrum, Monday, 26th August 1985 / 4th Bhadra 1907 [No. 703

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 4676|LA4|85. *Dated, Trivandrum, 26th August, 1985.*

The Kerala Marine Fishing Regulation (Amendment) Bill, 1985 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

K. P. PADMANABHAN,
Secretary,
Legislative Assembly.

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33/3545/MC.

Seventh Kerala Legislative Assembly

Bill No. 172

THE KERALA MARINE FISHING REGULATION (AMENDMENT) BILL, 1985

A

BILL

to amend the Kerala Marine Fishing Regulation Act, 1980.

Preamble.—WHEREAS it is expedient to amend the Kerala Marine Fishing Regulation Act, 1980 for the purposes hereinafter appearing;

BE it enacted in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Marine Fishing Regulation (Amendment) Act, 1985.

(2) It shall be deemed to have come into force on the 9th day of August, 1984.

2. *Amendment of section 2.*—In section 2 of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) (hereinafter referred to as the principal Act), clause (b) shall be omitted.

3. *Substitution of new section for section 18.*—For section 18 of the principal Act, the following section shall be substituted, namely:—

"18. *Appeal.*—(1) Any person aggrieved by an order of the adjudicating officer may, within thirty days from the date on which the order is made, prefer an appeal to the District Collector having jurisdiction over the area for which the adjudicating officer exercises powers:

Provided that the District Collector may entertain an appeal after the expiry of the said period of thirty days, but not after the expiry of sixty days, from the date aforesaid, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal under this section shall be entertained by the District Collector unless the appellant has, at the time of filing the appeal, deposited the amount of penalty payable under the order appealed against:

Provided that, on an application made by the appellant in this behalf, the District Collector may, if he is of the opinion that the deposit to be made under this sub-section will cause undue hardship to the appellant, by order in writing, dispense with such deposit either unconditionally or subject to such conditions as he may deem fit to impose.

(3) On receipt of an appeal under sub-section (1), the District Collector may, after holding such enquiry as he deems fit and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against and the decision of the District Collector shall be final; and—

(a) if the sum deposited by way of penalty under sub-section (2) exceeds the penalty directed to be paid by the District Collector, the excess amount, or

(b) if the District Collector sets aside the order imposing penalty the whole of the sum deposited by way of penalty, shall be refunded to the appellant.".

4. *Amendment of section 19.*—In section 19 of the principal Act,—

(a) in the marginal note, for the words "Appellate Board", the words "District Collector" shall be substituted;

(b) for the words "Appellate Board", the words "District Collector" shall be substituted;

(c) for the word "itself", the word "himself" shall be substituted;

(d) for the word "it", the word "he" shall be substituted.

5. *Amendment of section 20.*—In section 20 of the principal Act,—

(i) in the marginal note, for the words "Appellate Board", the words "District Collector" shall be substituted.

(ii) in sub-section (1), for the words "Appellate Board", the words "District Collector" shall be substituted;

(iii) in sub-section (2), for the words "Appellate Board", the words "District Collector" shall be substituted.

6. *Amendment of section 24.*—In sub-section (2) of section 24 of the principal Act, for clause (k), the following clause shall be substituted, namely:—

"(k) the procedure to be followed by the District Collector under section 18;".

7. *Transitory provision.*—All appeals from the orders of adjudicating officers under section 18 of the principal Act, pending before the Appellate Board at the commencement of this Act, shall be transferred to the District Collector having jurisdiction and the District Collector shall dispose of such appeals under the principal Act as amended by this Act.

8. *Repeal and saving.*—(1) The Kerala Marine Fishing Regulation (Amendment) Ordinance, 1985 (43 of 1985) is hereby repealed.

(2) Notwithstanding such repeal anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 18 of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) provided that the Government may, by notification in the Gazette, constitute one or more Appellate Board or Appellate Boards. Sub-section (2) of section 18 provided that the Appellate Board shall consist of three members, of whom one shall be a person who is or has been a District Judge, who shall be appointed as the Chairman of the Appellate Board. Government constituted an Appellate Board consisting of three members as per G. O. (P) 16|81|TF and PD dated the 24th March, 1981. During the entire period of the Appellate Board, only two appeals were filed before the Appellate Board, though an expenditure of more than Rs. two lakhs had been incurred by the State Government towards the functioning of the Board. It has also been the experience that there was some difficulty for all the three members of the Board to meet together to hear the appeals. It was, therefore, considered necessary to amend the Act to provide for an alternative forum for appeal from the orders of the adjudicating officer. Accordingly, it was decided that the power to hear such appeals may be conferred on the District Court having jurisdiction over the area for which the adjudicating officer exercises powers.

2. Since the amendment had to be given effect to immediately and since the Legislative Assembly was not in session, the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1984 (64 of 1984) was promulgated by the Governor on the 8th day of August, 1984. A Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984. In order to keep alive the provisions of the said Ordinance, the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1984 (94 of 1984) was promulgated by the Governor on the 3rd day of December, 1984. A Bill to replace Ordinance 94 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985.

3. It was subsequently found that an appellate forum enabling speedier disposal of appeals would be necessary for curbing the tendency on the part of the mechanised boat owners to violate the provisions of the Act. It was therefore decided that the District Collector may be the appellate authority instead of the District Judge.

4. Accordingly the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1985 (27 of 1985) was promulgated by the Governor on the 17th day of April, 1985 for the above purpose.

5. A Bill to replace Ordinance 27 of 1985 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 1st day of July, 1985 and ended on the 31st day of July, 1985. In order to keep alive the provisions of Ordinance 27 of 1985 the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1985 (43 of 1985) was promulgated by the Governor on the 7th day of August, 1985.

6. The Bill seeks to replace Ordinance 43 of 1985 by an Act of the Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The new clause proposed to be substituted for clause (k) of sub-section (2) of section 24 seeks to confer power on the Government to make rules providing for the procedure to be followed by the District Collector under section 18. This is a matter of procedure and is administrative in nature. Further, the rules, after they are made, are subject to scrutiny by the Legislative Assembly. Therefore, the delegation of legislative power is of a normal character.

K. KARUNAKARAN

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Transport (B) Department

ORDER

G. O. Rt. No. 262|85|Tr. D. *Dated, Trivandrum, 26th August, 1985.*

S. R. O. No. 1156|85.—Whereas it has been brought to the notice of Government that the operators of the existing stage carriage services in the State found it uneconomic to run their services due to competition among the new entrants who obtained temporary permits from Regional Transport Authorities under section 62 of the Motor Vehicles Act, 1939 (Central Act 4 of 1939);

And whereas, the Government of Kerala are of opinion that the increase in the issue of temporary permits causes unhealthy competition among the private bus operators giving room for bus accidents;

And whereas, the Government of Kerala consider that it is necessary in the public interest to restrict the grant of temporary permits for stage carriages for a period of six months, to avoid unhealthy competition;

Now, therefore, in exercise of the powers conferred by section 43A of the Motor Vehicles Act, 1939 (Central Act 4 of 1939), the Government of Kerala hereby direct that for a period of six months from the date of this order the Regional Transport

Authorities|Regional Transport Officers in the State shall act according to the following instructions in the matter of issue of temporary permits, namely:—

(i) Temporary permits need not be issued in the existing routes which are adequately serviced;

(ii) Wherever it is found that the need for additional service is permanent, steps should be taken to issue pucca permits;

(iii) The Regional Transport Authorities whenever they issue permits should notify such routes, and hold such enquiry as may be necessary and ensure that parameters like occupancy ratio, number of trips available, seating capacity are taken into account and specific remarks of officials of Motor Vehicles Department, Police Department etc., are also obtained;

(iv) Suo moto applications for temporary permits should not be entertained;

(v) Wherever possible, existing services may be extended to new routes in continuation upto a distance of 10 k.ms., to cover in the case of virgin routes without affecting the interest of the existing operators;

(vi) Steps should be taken to sanction pucca permits on routes already covered by temporary permits if nationalisation scheme is not pending;

(vii) Only in the case of totally new roads with the virgin portions through with which extension of existing services is not feasible or where there are no bus services, fresh permits need be issued and that too, after fulfilling the norms mentioned in item (iii).

By order of the Governor,

K. UPPILIAPPAN,
Secretary to Government.

Explanatory Note

(This is not part of the Notification).

Government have felt the necessity of restricting issue of temporary permits to private stage carriage operators, so as to avoid unhealthy competition and consequent bus accidents. This notification is intended to achieve the above object.

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